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# HOUSE BILL No. 1034

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-47-3-2; IC 36-2-21.

**Synopsis:** Firearm and weapon sales on county property. Prohibits sales of weapons, firearms, bombs, grenades, ammunition, firearm components, and shotguns on county property. Prohibits gun shows on county property. Exempts from the prohibition purchases made by the county for a county employee and by the county sheriff's department for a member of the department. Provides that a resident of the county has a private cause of action to enforce and prevent violations. Provides that the county is liable to the county resident bringing the action for court costs and reasonable attorney's fees if a judgment is entered against the county.

**Effective:** July 1, 2001.

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**Smith V**

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January 8, 2001, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 1034

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 35-47-3-2 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) This section  
3       applies only to firearms which are not required to be registered in the  
4       National Firearms Registration and Transfer Record.

5       (b) Firearms shall be returned to the rightful owner at once  
6       following final disposition of the cause if a return has not already  
7       occurred under the terms of IC 35-33-5. If the rightful ownership is not  
8       known, the law enforcement agency holding the firearm shall make a  
9       reasonable attempt to ascertain the rightful ownership and cause the  
10      return of the firearm. However, nothing in this chapter shall be  
11      construed as requiring the return of firearms to rightful owners who  
12      have been convicted for the misuse of firearms. In such cases, the court  
13      may provide for the return of the firearm in question or order that the  
14      firearm be at once delivered:

15           (1) except as provided in subdivision (2), to the sheriff's  
16           department of the county in which the offense occurred; or  
17           (2) to the city or town police force that confiscated the firearm, if:

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(A) a member of the city or town police force confiscated the firearm; and

(B) the city or town has a population of more than two thousand five hundred (2,500) and less than two hundred fifty thousand (250,000).

(c) The receiving law enforcement agency shall dispose of firearms under subsection (b), at the discretion of the law enforcement agency, not more than one hundred twenty (120) days following receipt by use of any of the following procedures:

(1) Public sale of the firearms to the general public as follows:

(A) Notice of the sale shall be:

(i) posted for ten (10) days in the county courthouse in a place readily accessible to the general public; and

(ii) advertised in the principal newspaper of the county for two (2) days in an advertisement that appears in the newspaper at least five (5) days prior to the sale.

(B) Disposition of the firearm shall be by public auction in a place, **other than on county property, that is** convenient to the general public, with disposition going to the highest bidder. However, no firearm shall be transferred to any bidder if that bidder is not lawfully eligible to receive and possess firearms according to the laws of the United States and Indiana.

(C) All handguns transferred under this subdivision shall also be transferred according to the transfer procedures set forth in this article.

(D) Money collected pursuant to the sales shall first be used to defray the necessary costs of administering this subdivision with any surplus to be:

(i) deposited into the receiving law enforcement agency's firearms training fund, if the law enforcement agency is a county law enforcement agency, or into a continuing education fund established under IC 5-2-8-2, if the law enforcement agency is a city or town law enforcement agency; and

(ii) used by the agency exclusively for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties, if the law enforcement agency is a county law enforcement agency, or for law enforcement purposes, if the law enforcement agency is a city or town law enforcement agency.

**(E) A public sale of firearms under this subdivision may**

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1           **not be held on county property (as defined in**  
 2           **IC 36-2-21-2).**

3           (2) Sale of the firearms to a licensed firearms dealer as follows:

4           (A) Notice of the sale must be:

5           (i) posted for ten (10) days in the county courthouse in a  
 6           place readily accessible to the general public; and

7           (ii) advertised in the principal newspaper of the county for  
 8           two (2) days in an advertisement that appears in the  
 9           newspaper at least five (5) days before the sale.

10          (B) Disposition of the firearm shall be by auction with  
 11          disposition going to the highest bidder who is a licensed  
 12          firearms dealer.

13          (C) Money collected from the sales shall first be used to defray  
 14          the necessary costs of administering this subdivision and any  
 15          surplus shall be:

16          (i) deposited into the receiving law enforcement agency's  
 17          firearms training fund or other appropriate training activities  
 18          fund; and

19          (ii) used by the agency exclusively for the purpose of  
 20          training law enforcement officers in the proper use of  
 21          firearms or other law enforcement duties.

22          **(D) A sale of firearms under this subdivision may not be**  
 23          **held on county property (as defined in IC 36-2-21-2).**

24          (3) Sale or transfer of the firearms to another law enforcement  
 25          agency.

26          (4) Release to the state police department laboratory or other  
 27          forensic laboratory administered by the state or a political  
 28          subdivision (as defined in IC 36-1-2-13) for the purposes of  
 29          research, training, and comparison in conjunction with the  
 30          forensic examination of firearms evidence.

31          (5) Destruction of the firearms.

32          (d) Notwithstanding the requirement of this section mandating  
 33          disposal of firearms not more than one hundred twenty (120) days  
 34          following receipt, the receiving law enforcement agency may at its  
 35          discretion hold firearms it may receive until a sufficient number has  
 36          accumulated to defray the costs of administering this section if a delay  
 37          does not exceed one hundred eighty (180) days from the date of receipt  
 38          of the first firearm in the sale lot. In any event, all confiscated firearms  
 39          shall be disposed of as promptly as possible.

40          (e) When a firearm is delivered to the state police department  
 41          laboratory or other forensic laboratory under subsection (c)(4) and the  
 42          state police department laboratory or other forensic laboratory

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determines the laboratory has no further need for the firearm in question, the laboratory shall return the firearm to the law enforcement agency for disposal under subsection (c).

SECTION 2. IC 36-2-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

**Chapter 21. Firearm and Weapon Sales on County Property**

**Sec. 1. (a) This chapter applies to all counties.**

**(b) This chapter does not apply to a purchase made by a:**

- (1) county, for a county employee; or**
- (2) county sheriff's department, for a member of the county sheriff's department.**

**Sec. 2. As used in this chapter, "county property" means:**

- (1) a building or other structure owned or rented by a county; and**
- (2) the grounds adjacent to and owned or rented in common with a building or other structure owned or rented by a county.**

**Sec. 3. (a) The sale of:**

- (1) a firearm (as defined in IC 35-47-1-5);**
- (2) a bomb;**
- (3) a grenade;**
- (4) a deadly weapon (as defined in IC 35-41-1-8);**
- (5) a shotgun (as defined in IC 35-47-1-11);**
- (6) ammunition for a firearm; or**
- (7) a component of a firearm;**

**is prohibited on county property.**

**(b) A gun show (as defined in IC 35-47-1-5.5) may not be held on county property.**

**Sec. 4. (a) A resident of a county that violates this chapter has a private right of action to:**

- (1) enforce and prevent violation of this chapter; and**
- (2) restrain or enjoin, temporarily or permanently, the county from violating this chapter.**

**(b) For purposes of obtaining relief sought under this section, it is not necessary to allege or prove irreparable harm or injury to a person or property.**

**(c) A county that violates this chapter is liable to a county resident who brings an action under this chapter for reasonable attorney's fees and court costs if judgment is entered by the court against the county.**



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